

SS
25/2/72

भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग २-खंड १

PART II—Section 1

प्रधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

म० २]

नई दिल्ली, मंगलवार, जनवरी ११, १९७२/पौष २१, १८९३

No. 2]

NEW DELHI, TUESDAY, JANUARY 11, 1972/PAU SA 21, 1893

इस भाग में भिन्न पृष्ठ सं. या दी जाती हैं जिससे कि यह अलग संकलन के रूप में रखा जा सके

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 11th January, 1972/Pausa 21, 1893 (Saka)

The following President's Act is published for general information:—

THE MYSORE CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1972

NO. 1 OF 1972

Enacted by the President in the Twenty-second Year of the Republic of India.

An Act further to amend the Mysore Co-operative Societies Act, 1959.

In exercise of the powers conferred by section 3 of the Mysore State Legislature (Delegation of Powers) Act, 1971, the President is pleased to enact as follows:—

1 (1) This Act may be called the Mysore Co-operative Societies (Amendment) Act, 1972.

(2) It shall be deemed to have effect from the 5th day of February, 1971.

Short
title and
com-
mence-
ment.

2. Section 101 of the Mysore Co-operative Societies Act, 1959 (herein-after referred to as the principal Act), shall be re-numbered as sub-section (1) of that section and after the sub-section as so re-numbered, the following sub-section shall be and shall always be deemed to have been inserted, namely:—

Amend-
ment of
section
101.

(2) (a) Notwithstanding anything contained in this Act, every question relating to the execution, discharge or satisfaction of an order, decision or award referred to in sub-section (1) or relating to the confirmation or setting aside of a sale held in an execution

of such order, decision or award in pursuance of clause (c) of sub-section (1), or relating to any claim or objection to an attachment of any property made under section 103 or in execution in pursuance of the said clause (c), shall be determined, by an order of the Registrar or any other person subordinate to him, empowered by the Registrar under the said clause (c) (hereinafter in this section referred to as "authorised person") before whom such question arises.

(b) (i) Where any claim is preferred against, or any objection is made to, the attachment of any property made under section 103 or in execution in pursuance of clause (c) of sub-section (1), on the ground that the said property is not liable to such attachment, the Registrar or the authorised person shall proceed to investigate the claim or objection:

Provided that where the Registrar or the authorised person considers that the claim or objection was designedly or unnecessarily delayed, he shall make an order refusing such investigation.

(ii) Where, upon the said investigation, the Registrar or the authorised person is satisfied that for the reason stated in the claim or objection, such property was not, at the date of the attachment, in the possession of the person or co-operative society against whom the order, decision or award has been obtained or passed (hereinafter in this section referred to as the "judgment-debtor") or of some person in trust for the judgment-debtor or in the occupancy of a tenant or other person paying rent to the judgment-debtor or that, being in the possession of the judgment-debtor at the said date, it was so in his possession, not in his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Registrar or the authorised person shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment.

(iii) Where the Registrar or the authorised person is satisfied that the property was, at the said date, in the possession of the judgment-debtor as his own property and not on account of any other person, or was in the occupancy of a tenant or other person paying rent to him, the Registrar or the authorised person shall disallow the claim.

(iv) Where a claim or an objection is preferred, the party against whom an order is made may within a period of one year from the date of such order, institute a suit in a civil court to establish the right which he claims to the property in dispute; but, subject to the result of such suit, if any, the order of the Registrar or the authorised person shall be conclusive.

Valida-
tion.

3. (1) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or any other authority, no order made or purporting to have been made under rule 41 or under any other rule of the Mysore Co-operative Societies Rules, 1960, either rejecting the claim or refusing to investigate the claim or allowing the claim to any

property attached, at any time before the commencement of this Act shall be deemed to be invalid or to have become invalid merely on the ground that the officer concerned had no jurisdiction to entertain or adjudicate upon the claim made by persons who could not be made parties to a dispute under section 70 of the principal Act, and the order so made shall be deemed to have been validly made in accordance with the principal Act as amended by this Act.

(2) Notwithstanding anything contained in any law or in any judgment, decree or order of any court, tribunal or any other authority, all proceedings for investigating a claim to attached property under rule 41 or under any other rule of the Mysore Co-operative Societies Rules, 1960, pending before any officer or any other authority shall be deemed to be proceedings commenced under the provisions of the principal Act as amended by this Act and shall be continued and disposed of accordingly.

Mysore
Ord. No. 6
of 1970

4. Notwithstanding the expiry of the Mysore Co-operative Societies Savings.
(Amendment) Ordinance, 1970, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

V. V. GIRI,
President.

N. D. P. NAMBOODIRIPAD,
Joint Secy. to the Govt. of India.

Reasons for the enactment

According to clause (c) of section 101 of the Mysore Co-operative Societies Act, 1959, an order, decision and award made under the Act can be executed by the Registrar or any other person subordinate to him by attachment and sale of any property of the person or co-operative society against whom the order, decision or award has been obtained or passed. In order to implement this provision necessary rules have been made and rule 41 of the Mysore Co-operative Societies Rules, 1960, empowers the Sale Officer to investigate the claims to property attached in execution. In pursuance of this provision, Sale Officers have been investigating such claims.

In *Jyotiba Yellappa v. Hubli Co-operative Cotton Sale Society, Ltd.*, [1970 (2) Mys. L.J. 344], the High Court of Mysore held that the procedure under rule 41 of the Co-operative Societies Rules is limited in its operation to persons who can properly be made parties to the original dispute under section 70 of the Act and that hence a claim by non-members against the attachment and sale in execution of an award cannot be adjudicated under rule 41.

In view of this decision, execution of orders, decisions and awards in which claims to the property attached had been made by non-members would become invalid and ineffective. Further, execution of order, decisions and awards could not be proceeded with except in cases where members of the society were interested in the properties liable to attachment and sale. Consequently, the Co-operative Societies could not pursue the expeditious procedure for recovery under the Co-operative Societies Rules.

Hence it became necessary to empower the Registrar and his subordinates to exercise the powers of investigating claims to property attached in the execution of the orders, decisions and awards.

As the Houses of Legislature were not in session and the matter was urgent, an Ordinance was promulgated amending section 101 of the Act and validating the action already taken. Thereafter before the Ordinance could be replaced by the Act of State Legislature, the State Legislature was suspended by the proclamation of the President, dated 27th March, 1971, under article 356 of the Constitution. The Bill is intended to replace the Ordinance and is for enactment under the provisions of the Mysore State Legislature (Delegation of Powers) Act, 1971.

The Consultative Committee on State Legislation relating to Mysore at its second meeting on the 7th December, 1971, has considered the Mysore Co-operative Societies (Amendment) Bill, 1972, and has accorded its approval of the same.

M. A. QUARISHI,
Addl. Secy. to the Govt. of India,
Ministry of Agriculture
(Department of Co-operation).

